

		FMA 307-4
Department of Public Health and Human Services	Section:	NON FINANCIAL REQUIREMENTS
	Subject:	Estates Recovery
FAMILY RELATED MEDICAID		

Supersedes: FMA 307-4, 07/01/05

References: MCA 53-6-165 through -169, 171; ARM 37.82.101, and .431

GENERAL RULE--The Montana Medicaid Lien & Estate Recovery Program was adopted to recover the cost of medical services from the estates of deceased Medicaid recipients. One component of the program is Estates Recovery.

ESTATE

A deceased individual's estate consists of all property (both real and personal) which:

1. the decedent owned at the time of death; and/or
2. automatically transferred to beneficiaries upon death.

This property includes property:

1. reported in probate;
2. owned in joint tenancy; and
3. owned in tenancy-in-common.

NOTE: The State does not normally recover on property owned by joint tenants unless the property is being sold. At the time of a Medicaid application, property held in joint tenancy should be evaluated to make sure both names were on the property prior to the look back period.

ESTATES RECOVERY

To help pay Medicaid covered expenses for the increasing number of individuals needing medical care, Medicaid will file a creditor's claim against the estate of a deceased Medicaid recipient. Collection will only be pursued for medical expenses Medicaid paid while the individual was:

1. a resident of a nursing home;
2. a resident of an intermediate care facility for the mentally retarded;
3. a resident of an institution for mental disease; or
4. age 55 or older (determined from the actual date the person attains age 55).

All nursing home applicants must read and sign Form HCS-120, "Estate Recovery for Nursing Home Residents" as a condition of eligibility. The applicant receives the white copy and the yellow copy must be retained in the county file.



Medicaid applicants and recipients age 55 and older who are not institutionalized or receiving HCBS/waiver must be provided with a copy of HCS-120, although signing and returning the form is not a condition of eligibility.

ESTATE RECOVERY EXEMPTION

If probate is opened and Medicaid files a claim against the estate, Medicaid will not collect if the recipient has a surviving:

1. spouse;
2. child under age 21; or
3. child who is blind or disabled according to the Social Security Administration's criteria.

RECOVERABLE EXPENSES

Recoveries from a deceased recipient's estate will include the following expenses paid by Medicaid:

1. health insurance premiums (including Medicare);
2. hospital services;
3. prescription drug services;
4. nursing home services;
5. home and community based services; and
6. all other Medicaid covered services.

NOTE: Total recovered amount cannot exceed the total expenses paid by Medicaid.

RECOVERY

When the Medicaid Program becomes aware of recoverable assets, a claim will be filed against the deceased recipient's estate. The personal representative or the attorney handling the estate will be responsible for paying creditor's claims from the estate property sale proceeds.

NOTE: The Medicaid Program is considered a general creditor in any probate action.

EXCESS BURIAL FUNDS

Anyone who holds funds in excess of \$5,000 that were specifically designated to pay for the disposition of a decedent's remains shall, after paying for the disposition, pay **all remaining funds** to the Department of Public Health & Human Services within thirty (30) days after the disposition.

**CHECKING/
SAVINGS**

Whether the checking or savings account balance(s) may be applied toward the deceased recipient's funeral expenses is contingent on where

**ACCOUNT
BALANCES**

the individual was residing at the time of death.

1. If the recipient was **not** residing in a nursing home, account balance(s) may be applied toward funeral expenses (subject to probate laws).
2. If the recipient was residing in a nursing home, account balance(s) may **not** be applied toward funeral expenses.

NOTE:

When a recipient resided in a nursing home at the time of death, checking/savings account balances are considered to have been 'personal needs funds'.

**PERSONAL NEEDS
FUNDS**

Personal needs funds are monies set aside for a nursing home resident's personal needs and medical expenses that are not covered by Medicaid. **After the nursing home resident's death, the balance must be paid to the Medicaid Program within thirty (30) days.**

EXCEPTION:

After the nursing home resident's death, personal needs funds may be used to satisfy an outstanding debt to the nursing home.

County Burial: The county director may request a waiver to the requirement that deceased nursing home residents' personal needs funds automatically be paid to the Medicaid Program (copy of form on page 5). Requests will be approved when:

1. the request does not exceed \$1,200;
2. all other assets and resources of the deceased have been applied toward burial expenses prior to use of personal funds; and
3. except for use of the deceased's personal needs funds, burial expenses would be borne by the county.

NOTE:

This waiver is **not** available to assist surviving relatives in paying the deceased's final expenses.

**HEIR WISHES TO
RETAIN ESTATE**

When a Medicaid recipient's heir(s) wishes to retain ownership of estate property, the individual(s) may do so by paying the lesser of the:

1. total amount Medicaid is entitled to recover; or
2. fair market value of the estate property.

**HARDSHIP
EXEMPTION**

Recovery will not be pursued if it would cause an undue hardship for the heir(s). After action has been taken to recover Medicaid paid expenses, the heir(s) may request recovery be waived or compromised based on a hardship. The Estate Recovery Unit will consider all requests and arrangements will be made if a true hardship exists.

**ESTATES
RECOVERY
UNIT**

The Estates Recovery Program can be reached at:

DPHHS
Estates Recovery Program
PO Box 202953
Helena, MT 59620-2953
Phone: 1-800-694-3084
Fax: 1-800-457-1278

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Section: NON FINANCIAL REQUIREMENTS

Subject: Estates Recovery

**REQUEST FOR WAIVER OF MEDICAL RECOVERY
FROM DECEASED NURSING FACILITY RESIDENT'S PERSONAL FUNDS**

I. RECIPIENT'S INFORMATION:

Name: _____
 Date of Death: _____
 Social Security Number: _____
 Last Known Address: _____

II. WAIVER INFORMATION:

Amount of waiver requested: \$ _____
 Amount of personal funds remaining at death: \$ _____
 Specific allocated burial cost: \$ _____
 List any other assets at death: \$ _____

III. BURIAL COSTS:

Who is financially responsible? ☐ Family ☐ County ☐ Other _____
 Amount to be paid by family: \$ _____
 Explain: _____

IV. COUNTY DIRECTOR INFORMATION:

Date: _____

Name (Please Print) _____

County _____

Signature _____

Phone Number _____

PLEASE FORWARD THIS WAIVER REQUEST FORM TO:

DPHHS

Estates Recovery Program

PO Box 202953

Helena, MT 59620-2953

Phone: 1-800-694-3084 FAX: 1-800-457-1278

*THIS REQUEST FOR WAIVER MUST BE APPROVED PRIOR TO THE USE OF THE
RECIPIENT'S PERSONAL FUNDS FOR BURIAL COSTS.*

TO BE COMPLETED BY ESTATES RECOVERY:

Date: _____

The waiver request has been: ☐ Approved ☐ DeniedComments: _____

Estate Recoveries Representative _____